

104TH CONGRESS  
1ST SESSION

# H. R. 665

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## AN ACT

To control crime by mandatory victim restitution.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Victim Restitution Act  
5       of 1995”.

6       **SEC. 2. MANDATORY RESTITUTION AND OTHER PROVI-**  
7       **SIONS.**

8       (a) ORDER OF RESTITUTION.—Section 3663 of title  
9       18, United States Code, is amended—

10               (1) in subsection (a)—

11                       (A) in paragraph (1)—

1 (i) by striking “may order, in addition  
2 to or, in the case of a misdemeanor, in lieu  
3 of any other penalty authorized by law”  
4 and inserting “shall order”; and

5 (ii) by adding at the end the follow-  
6 ing: “The requirement of this paragraph  
7 does not affect the power of the court to  
8 impose any other penalty authorized by  
9 law. In the case of a misdemeanor, the  
10 court may impose restitution in lieu of any  
11 other penalty authorized by law.”;

12 (B) by adding at the end the following:

13 “(4) In addition to ordering restitution to the victim  
14 of the offense of which a defendant is convicted, a court  
15 may order restitution to any person who, as shown by a  
16 preponderance of evidence, was harmed physically, emo-  
17 tionally, or pecuniarily, by unlawful conduct of the defend-  
18 ant during—

19 “(A) the criminal episode during which the of-  
20 fense occurred; or

21 “(B) the course of a scheme, conspiracy, or pat-  
22 tern of unlawful activity related to the offense.”;

23 (2) in subsection (b)(1)(B) by striking “imprac-  
24 tical” and inserting “impracticable”;

1           (3) in subsection (b)(2) by inserting “emotional  
2 or” after “resulting in”;

3           (4) in subsection (b)—

4                 (A) by striking “and” at the end of para-  
5 graph (4);

6                 (B) by redesignating paragraph (5) as  
7 paragraph (6); and

8                 (C) by inserting after paragraph (4) the  
9 following new paragraph:

10                 “(5) in any case, reimburse the victim for lost  
11 income and necessary child care, transportation, and  
12 other expenses related to participation in the inves-  
13 tigation or prosecution of the offense or attendance  
14 at proceedings related to the offense; and”;

15           (5) in subsection (c) by striking “If the court  
16 decides to order restitution under this section, the”  
17 and inserting “The”;

18           (6) by striking subsections (d), (e), (f), (g), and  
19 (h);

20           (7) by redesignating subsection (i) as subsection  
21 (m); and

22           (8) by inserting after subsection (c) the follow-  
23 ing:

1       “(d)(1) The court shall order restitution to a victim  
2 in the full amount of the victim’s losses as determined by  
3 the court and without consideration of—

4               “(A) the economic circumstances of the of-  
5 fender; or

6               “(B) the fact that a victim has received or is  
7 entitled to receive compensation with respect to a  
8 loss from insurance or any other source.

9       “(2) Upon determination of the amount of restitution  
10 owed to each victim, the court shall specify in the restitu-  
11 tion order the manner in which and the schedule according  
12 to which the restitution is to be paid, in consideration of—

13               “(A) the financial resources and other assets of  
14 the offender;

15               “(B) projected earnings and other income of  
16 the offender; and

17               “(C) any financial obligations of the offender,  
18 including obligations to dependents.

19       “(3) A restitution order may direct the offender to  
20 make a single, lump-sum payment, partial payment at  
21 specified intervals, or such in-kind payments as may be  
22 agreeable to the victim and the offender. A restitution  
23 order shall direct the offender to give appropriate notice  
24 to victims and other persons in cases where there are mul-  
25 tiple victims or other persons who may receive restitution,

1 and where the identity of such victims and other persons  
2 can be reasonably determined.

3 “(4) An in-kind payment described in paragraph (3)  
4 may be in the form of—

5 “(A) return of property;

6 “(B) replacement of property; or

7 “(C) services rendered to the victim or to a per-  
8 son or organization other than the victim.

9 “(e) When the court finds that more than 1 offender  
10 has contributed to the loss of a victim, the court may make  
11 each offender liable for payment of the full amount of res-  
12 titution or may apportion liability among the offenders to  
13 reflect the level of contribution and economic cir-  
14 cumstances of each offender.

15 “(f) When the court finds that more than 1 victim  
16 has sustained a loss requiring restitution by an offender,  
17 the court shall order full restitution to each victim but  
18 may provide for different payment schedules to reflect the  
19 economic circumstances of each victim.

20 “(g)(1) If the victim has received or is entitled to re-  
21 ceive compensation with respect to a loss from insurance  
22 or any other source, the court shall order that restitution  
23 be paid to the person who provided or is obligated to pro-  
24 vide the compensation, but the restitution order shall pro-  
25 vide that all restitution to victims required by the order

1 be paid to the victims before any restitution is paid to  
2 such a provider of compensation.

3 “(2) The issuance of a restitution order shall not af-  
4 fect the entitlement of a victim to receive compensation  
5 with respect to a loss from insurance or any other source  
6 until the payments actually received by the victim under  
7 the restitution order fully compensate the victim for the  
8 loss, at which time a person that has provided compensa-  
9 tion to the victim shall be entitled to receive any payments  
10 remaining to be paid under the restitution order.

11 “(3) Any amount paid to a victim under an order of  
12 restitution shall be set off against any amount later recov-  
13 ered as compensatory damages by the victim in—

14 “(A) any Federal civil proceeding; and

15 “(B) any State civil proceeding, to the extent  
16 provided by the law of the State.

17 “(h) A restitution order shall provide that—

18 “(1) all fines, penalties, costs, restitution pay-  
19 ments and other forms of transfers of money or  
20 property made pursuant to the sentence of the court  
21 shall be made by the offender to an entity des-  
22 ignated by the Director of the Administrative Office  
23 of the United States Courts for accounting and pay-  
24 ment by the entity in accordance with this sub-  
25 section;

1           “(2) the entity designated by the Director of  
2           the Administrative Office of the United States  
3           Courts shall—

4                   “(A) log all transfers in a manner that  
5                   tracks the offender’s obligations and the cur-  
6                   rent status in meeting those obligations, unless,  
7                   after efforts have been made to enforce the res-  
8                   titution order and it appears that compliance  
9                   cannot be obtained, the court determines that  
10                  continued recordkeeping under this subpara-  
11                  graph would not be useful; and

12                   “(B) notify the court and the interested  
13                   parties when an offender is 30 days in arrears  
14                   in meeting those obligations; and

15                  “(3) the offender shall advise the entity des-  
16                  ignated by the Director of the Administrative Office  
17                  of the United States Courts of any change in the of-  
18                  fender’s address during the term of the restitution  
19                  order.

20                  “(i) A restitution order shall constitute a lien against  
21                  all property of the offender and may be recorded in any  
22                  Federal or State office for the recording of liens against  
23                  real or personal property.

24                  “(j) Compliance with the schedule of payment and  
25                  other terms of a restitution order shall be a condition of

1 any probation, parole, or other form of release of an of-  
2 fender. If a defendant fails to comply with a restitution  
3 order, the court may revoke probation or a term of super-  
4 vised release, modify the term or conditions of probation  
5 or a term of supervised release, hold the defendant in con-  
6 tempt of court, enter a restraining order or injunction,  
7 order the sale of property of the defendant, accept a per-  
8 formance bond, or take any other action necessary to ob-  
9 tain compliance with the restitution order. In determining  
10 what action to take, the court shall consider the defend-  
11 ant's employment status, earning ability, financial re-  
12 sources, the willfulness in failing to comply with the res-  
13 titution order, and any other circumstances that may have  
14 a bearing on the defendant's ability to comply with the  
15 restitution order.

16 “(k) An order of restitution may be enforced—

17 “(1) by the United States—

18 “(A) in the manner provided for the collec-  
19 tion and payment of fines in subchapter B of  
20 chapter 229 of this title; or

21 “(B) in the same manner as a judgment in  
22 a civil action; and

23 “(2) by a victim named in the order to receive  
24 the restitution, in the same manner as a judgment  
25 in a civil action.



1       “(l) A victim or the offender may petition the court  
2 at any time to modify a restitution order as appropriate  
3 in view of a change in the economic circumstances of the  
4 offender.”.

5       (b) PROCEDURE FOR ISSUING ORDER OF RESTITU-  
6 TION.—Section 3664 of title 18, United States Code, is  
7 amended—

8           (1) by striking subsection (a);

9           (2) by redesignating subsections (b), (c), (d),  
10 and (e) as subsections (a), (b), (c), and (d);

11           (3) by amending subsection (a), as redesignated  
12 by paragraph (2), to read as follows:

13       “(a) The court may order the probation service of the  
14 court to obtain information pertaining to the amount of  
15 loss sustained by any victim as a result of the offense,  
16 the financial resources of the defendant, the financial  
17 needs and earning ability of the defendant and the defend-  
18 ant’s dependents, and such other factors as the court  
19 deems appropriate. The probation service of the court  
20 shall include the information collected in the report of  
21 presentence investigation or in a separate report, as the  
22 court directs.”; and

23           (4) by adding at the end thereof the following  
24 new subsection:

1       “(e) The court may refer any issue arising in connec-  
2   tion with a proposed order of restitution to a magistrate  
3   or special master for proposed findings of fact and rec-  
4   ommendations as to disposition, subject to a de novo de-  
5   termination of the issue by the court.”.

Passed the House of Representatives February 7,  
1995.

Attest:

*Clerk.*



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